

---

---

# HOUSE BILL No. 1805

---

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-1.1.

**Synopsis:** Property tax rates and levies. Allows the county auditor to reduce a taxing unit's assessed value used to set property tax rates for the following year to enable the unit to absorb the effects of reduced property tax collections expected to result from successful assessed value appeals. Limits the amount of the reduction. For property taxes first due and payable in 2006, sets a civil taxing unit's maximum property tax levy at the amount that would have applied for taxes payable in 2005 if the 2004 change had not been enacted that eliminated unused maximum levy capacity from the determination of the next year's maximum levy. Reverses that change for future years.

**Effective:** Upon passage.

---

---

## Saunders

---

---

January 19, 2005, read first time and referred to Committee on Local Government.

---

---

C  
o  
p  
y



First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## HOUSE BILL No. 1805

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 6-1.1-1-3 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Except as  
3 provided in subsection (b), "assessed value" or "assessed valuation"  
4 means an amount equal to:

5 (1) for assessment dates before March 1, 2001, thirty-three and  
6 one-third percent (33 1/3%) of the true tax value of property; and

7 (2) for assessment dates after February 28, 2001, the true tax  
8 value of property.

9 (b) For purposes of calculating a budget, rate, or levy under  
10 IC 6-1.1-17, IC 6-1.1-18, IC 6-1.1-18.5, IC 6-1.1-19, ~~IC 6-1.1-20,~~  
11 ~~IC 21-2-11.5,~~ and IC 21-2-15, "assessed value" or "assessed valuation"  
12 does not include:

13 (1) the assessed value of tangible property excluded and kept  
14 separately on a tax duplicate by a county auditor under  
15 ~~IC 6-1.1-17-0.5;~~ **IC 6-1.1-17-0.5(b);** or

16 (2) **the amount of a reduction to a taxing unit's assessed value**  
17 **made by the county auditor under IC 6-1.1-17-0.5(d).**



C  
o  
p  
y

SECTION 2. IC 6-1.1-15-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) If a petition for review to any board or a proceeding for judicial review in the tax court regarding an assessment or increase in assessment is pending, the taxes resulting from the assessment or increase in assessment are, notwithstanding the provisions of IC 6-1.1-22-9, not due until after the petition for review, or the proceeding for judicial review, is finally adjudicated and the assessment or increase in assessment is finally determined. However, even though a petition for review or a proceeding for judicial review is pending, the taxpayer shall pay taxes on the tangible property when the property tax installments come due, unless the collection of the taxes is stayed under IC 4-21.5-5-9 pending a final determination in the proceeding for judicial review. The amount of taxes which the taxpayer is required to pay, pending the final determination of the assessment or increase in assessment, shall be based on:

(1) the assessed value reported by the taxpayer on the taxpayer's personal property return if a personal property assessment, or an increase in such an assessment, is involved; or

(2) an amount based on the immediately preceding year's assessment of real property if an assessment, or increase in assessment, of real property is involved.

(b) If the petition for review or the proceeding for judicial review is not finally determined by the last installment date for the taxes, the taxpayer, upon showing of cause by a taxing official or at the tax court's discretion, may be required to post a bond or provide other security in an amount not to exceed the taxes resulting from the contested assessment or increase in assessment.

(c) Each county auditor shall keep separate on the tax duplicate a record of that portion of the assessed value of property that is described in IC 6-1.1-17-0.5(b) **or IC 6-1.1-17-0.5(d)**. When establishing rates and calculating state school support, the department of local government finance shall exclude from assessed value in the county the assessed value of property kept separate on the tax duplicate by the county auditor under IC 6-1.1-17-0.5(b) **or IC 6-1.1-17-0.5(d)**.

SECTION 3. IC 6-1.1-17-0.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 0.5. (a) For purposes of this section, "assessed value" has the meaning set forth in IC 6-1.1-1-3(a).

(b) The county auditor may exclude and keep separate on the tax duplicate for taxes payable in a calendar year the assessed value of tangible property that meets the following conditions:

C  
o  
p  
y



(1) The assessed value of the property is at least nine percent (9%) of the assessed value of all tangible property subject to taxation by a taxing unit. ~~(as defined in IC 6-1.1-1-21).~~

(2) The property is or has been part of a bankruptcy estate that is subject to protection under the federal bankruptcy code.

(3) The owner of the property has discontinued all business operations on the property.

(4) There is a high probability that the taxpayer will not pay property taxes due on the property in the following year.

(c) This section does not limit, restrict, or reduce in any way the property tax liability on the property.

**(d) For each taxing unit located in the county, the county auditor may reduce for a calendar year the taxing unit's assessed value certified to the department of local government finance under section 1 of this chapter that is used to set tax rates for the taxing unit for taxes first due and payable in the immediately succeeding calendar year. The county auditor may reduce a taxing unit's assessed value under this subsection only to enable the taxing unit to absorb the effects of reduced property tax collections in the immediately succeeding calendar year expected to result from successful appeals of the assessed value of property located in the taxing unit. The county auditor shall keep separately on the tax duplicate the amount of any reductions made under this subsection. The maximum amount of the reduction authorized under this subsection is determined under subsection (e).**

**(e) The amount of the reduction for a calendar year under subsection (d) may not exceed the lesser of:**

**(1) two percent (2%) of the assessed value of tangible property subject to assessment in the taxing unit in that calendar year; or**

**(2) the total amount of reductions in the assessed value of tangible property subject to assessment in the taxing unit that:**

**(A) applied for the assessment date in the immediately preceding year; and**

**(B) resulted from successful appeals of the assessed value of the property.**

**(f) The amount of a reduction under subsection (d) may not be offered in a proceeding before the:**

**(1) county property tax assessment board of appeals;**

**(2) Indiana board; or**

**(3) Indiana tax court;**

C  
o  
p  
y



as evidence that a particular parcel has been improperly assessed.

SECTION 4. IC 6-1.1-17-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) On or before August 1 of each year, the county auditor shall send a certified statement, under the seal of the board of county commissioners, to the fiscal officer of each political subdivision of the county and the department of local government finance. The statement shall contain:

(1) information concerning the assessed valuation in the political subdivision for the next calendar year;

(2) an estimate of the taxes to be distributed to the political subdivision during the last six (6) months of the current calendar year;

(3) the current assessed valuation as shown on the abstract of charges;

(4) the average growth in assessed valuation in the political subdivision over the preceding three (3) budget years, excluding years in which a general reassessment occurs, determined according to procedures established by the department of local government finance; ~~and~~

**(5) the amount of the political subdivision's assessed valuation reduction determined under section 0.5(d) of this chapter; and**  
~~(5) (6)~~ any other information at the disposal of the county auditor that might affect the assessed value used in the budget adoption process.

(b) The estimate of taxes to be distributed shall be based on:

(1) the abstract of taxes levied and collectible for the current calendar year, less any taxes previously distributed for the calendar year; and

(2) any other information at the disposal of the county auditor which might affect the estimate.

(c) The fiscal officer of each political subdivision shall present the county auditor's statement to the proper officers of the political subdivision.

SECTION 5. IC 6-1.1-17-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The proper officers of a political subdivision shall formulate its estimated budget and its proposed tax rate and tax levy on the form prescribed by the department of local government finance and approved by the state board of accounts. The political subdivision shall give notice by publication to taxpayers of:

(1) the estimated budget;

(2) the estimated maximum permissible levy;

C  
O  
P  
Y



(3) the current and proposed tax levies of each fund;

**(4) the amount of the political subdivision's assessed valuation reduction determined under section 0.5(d) of this chapter;** and

~~(4)~~ **(5) the amounts of excessive levy appeals to be requested.**

In the notice, the political subdivision shall also state the time and place at which a public hearing will be held on these items. The notice shall be published twice in accordance with IC 5-3-1 with the first publication at least ten (10) days before the date fixed for the public hearing.

(b) The board of directors of a solid waste management district established under IC 13-21 or IC 13-9.5-2 (before its repeal) may conduct the public hearing required under subsection (a):

(1) in any county of the solid waste management district; and

(2) in accordance with the annual notice of meetings published under IC 13-21-5-2.

(c) The trustee of each township in the county shall estimate the amount necessary to meet the cost of ~~poor relief~~ **township assistance** in the township for the ensuing calendar year. The township board shall adopt with the township budget a tax rate sufficient to meet the estimated cost of ~~poor relief~~ **township assistance**. The taxes collected as a result of the tax rate adopted under this subsection are credited to the township ~~poor relief~~ **assistance** fund.

SECTION 6. IC 6-1.1-17-8.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8.5. (a) If a county auditor reduces a taxing unit's assessed valuation under section 0.5(d) of this chapter, the department of local government finance shall, in the manner prescribed in section 16 of this chapter, review the budget, tax rate, and tax levy of the taxing unit.**

**(b) The county auditor may appeal to the department of local government finance to reduce a taxing unit's assessed valuation by an amount that exceeds the limits set forth in section 0.5 of this chapter. The department of local government finance:**

**(1) may require the county auditor to submit supporting information with the county auditor's appeal;**

**(2) shall consider the appeal at the time of the review required by subsection (a); and**

**(3) may approve, modify and approve, or reject the amount of the reduction sought in the appeal.**

SECTION 7. IC 6-1.1-17-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 16. (a) Subject to the limitations and requirements prescribed in this section, the**

C  
o  
p  
y



department of local government finance may revise, reduce, or increase a political subdivision's budget, tax rate, or tax levy which the department reviews under section 8, **8.5**, or 10 of this chapter.

(b) Subject to the limitations and requirements prescribed in this section, the department of local government finance may review, revise, reduce, or increase the budget, tax rate, or tax levy of any of the political subdivisions whose tax rates compose the aggregate tax rate within a political subdivision whose budget, tax rate, or tax levy is the subject of an appeal initiated under this chapter.

(c) Except as provided in subsection (j), before the department of local government finance reviews, revises, reduces, or increases a political subdivision's budget, tax rate, or tax levy under this section, the department must hold a public hearing on the budget, tax rate, and tax levy. The department of local government finance shall hold the hearing in the county in which the political subdivision is located. The department of local government finance may consider the budgets, tax rates, and tax levies of several political subdivisions at the same public hearing. At least five (5) days before the date fixed for a public hearing, the department of local government finance shall give notice of the time and place of the hearing and of the budgets, levies, and tax rates to be considered at the hearing. The department of local government finance shall publish the notice in two (2) newspapers of general circulation published in the county. However, if only one (1) newspaper of general circulation is published in the county, the department of local government finance shall publish the notice in that newspaper.

(d) Except as provided in subsection (i), IC 6-1.1-19, or IC 6-1.1-18.5, the department of local government finance may not increase a political subdivision's budget, tax rate, or tax levy to an amount which exceeds the amount originally fixed by the political subdivision. The department of local government finance shall give the political subdivision written notification specifying any revision, reduction, or increase the department proposes in a political subdivision's tax levy or tax rate. The political subdivision has one (1) week from the date the political subdivision receives the notice to provide a written response to the department of local government finance's Indianapolis office specifying how to make the required reductions in the amount budgeted for each office or department. The department of local government finance shall make reductions as specified in the political subdivision's response if the response is provided as required by this subsection and sufficiently specifies all necessary reductions. The department of local government finance may

**C  
o  
p  
y**



1 make a revision, a reduction, or an increase in a political subdivision's  
 2 budget only in the total amounts budgeted for each office or department  
 3 within each of the major budget classifications prescribed by the state  
 4 board of accounts.

5 (e) The department of local government finance may not approve a  
 6 levy for lease payments by a city, town, county, library, or school  
 7 corporation if the lease payments are payable to a building corporation  
 8 for use by the building corporation for debt service on bonds and if:

9 (1) no bonds of the building corporation are outstanding; or

10 (2) the building corporation has enough legally available funds on  
 11 hand to redeem all outstanding bonds payable from the particular  
 12 lease rental levy requested.

13 (f) The department of local government finance shall certify its  
 14 action to:

15 (1) the county auditor; and

16 (2) the political subdivision if the department acts pursuant to an  
 17 appeal initiated by the political subdivision.

18 (g) The following may petition for judicial review of the final  
 19 determination of the department of local government finance under  
 20 subsection (f):

21 (1) If the department acts under an appeal initiated by a political  
 22 subdivision, the political subdivision.

23 (2) If the department acts under an appeal initiated by taxpayers  
 24 under section 13 of this chapter, a taxpayer who signed the  
 25 petition under that section.

26 (3) If the department acts under an appeal initiated by the county  
 27 auditor under section 14 of this chapter, the county auditor.

28 The petition must be filed in the tax court not more than forty-five (45)  
 29 days after the department certifies its action under subsection (f).

30 (h) The department of local government finance is expressly  
 31 directed to complete the duties assigned to it under this section not later  
 32 than February 15th of each year for taxes to be collected during that  
 33 year.

34 (i) Subject to the provisions of all applicable statutes, the  
 35 department of local government finance may increase a political  
 36 subdivision's tax levy to an amount that exceeds the amount originally  
 37 fixed by the political subdivision if the increase is:

38 (1) requested in writing by the officers of the political  
 39 subdivision;

40 (2) either:

41 (A) based on information first obtained by the political  
 42 subdivision after the public hearing under section 3 of this

C  
O  
P  
Y





chapter; or

(B) results from an inadvertent mathematical error made in determining the levy; and

(3) published by the political subdivision according to a notice provided by the department.

(j) The department of local government finance shall annually review the budget of each school corporation not later than April 1. The department of local government finance shall give the school corporation written notification specifying any revision, reduction, or increase the department proposes in the school corporation's budget. A public hearing is not required in connection with this review of the budget.

**(k) The department of local government finance may not certify a taxing unit's budget, tax rate, or tax levy if the department of local government finance determines that the county auditor has reduced the taxing unit's assessed valuation by more than the amount authorized under section 0.5(e) or 8.5(b) of this chapter.**

SECTION 8. IC 6-1.1-18.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter:

"Ad valorem property tax levy for an ensuing calendar year" means the total property taxes imposed by a civil taxing unit for current property taxes collectible in that ensuing calendar year.

"Adopting county" means any county in which the county adjusted gross income tax is in effect.

"Civil taxing unit" means any taxing unit except a school corporation.

"Maximum permissible ad valorem property tax levy for the preceding calendar year" means the **greater of the:**

**(1) civil taxing unit's maximum permissible ad valorem property tax levy for the calendar year immediately preceding the ensuing calendar year, as that levy was determined under section 3 of this chapter; or**

**(2) civil taxing unit's ad valorem property tax levy for the calendar year immediately preceding the ensuing calendar year, as that levy was determined by the department of local government finance in fixing the civil taxing unit's budget, levy, and rate for that preceding calendar year under IC 6-1.1-17, and after eliminating the effects of temporary excessive levy appeals and temporary adjustments made to the working maximum levy for the calendar year immediately preceding the ensuing calendar year, as determined by the department of local government**

C  
o  
p  
y



finance.

"Taxable property" means all tangible property that is subject to the tax imposed by this article and is not exempt from the tax under IC 6-1.1-10 or any other law. For purposes of sections 2 and 3 of this chapter, the term "taxable property" is further defined in section 6 of this chapter.

"Unadjusted assessed value" means the assessed value of a civil taxing unit as determined by local assessing officials and the department of local government finance in a particular calendar year before the application of an annual adjustment under IC 6-1.1-4-4.5 for that particular calendar year or any calendar year since the last general reassessment preceding the particular calendar year.

**SECTION 9. [EFFECTIVE UPON PASSAGE] (a) For purposes of this SECTION:**

(1) "civil taxing unit" has the meaning set forth in IC 6-1.1-18.5-1; and

(2) "maximum levy" refers to the maximum permissible ad valorem property tax levy determined under IC 6-1.1-18.5-3.

(b) For property taxes first due and payable in 2006, the maximum levy of a civil taxing unit is the maximum levy for the unit for taxes first due and payable in 2005 in the amount that would have been determined under IC 6-1.1-18.5 if the amendments to IC 6-1.1-18.5 in P.L.1-2004 did not apply for taxes first due and payable in 2004 and 2005.

(c) For property taxes first due and payable in 2007, the maximum levy of a civil taxing unit is determined using the maximum levy determined under subsection (b) as the unit's maximum levy for the preceding calendar year in STEP ONE of IC 6-1.1-18.5-3(a) or STEP ONE of IC 6-1.1-18.5-3(b).

(d) This SECTION expires January 1, 2008.

**SECTION 10. [EFFECTIVE UPON PASSAGE] (a) IC 6-1.1-17-8.5, as added by this act, applies only to property taxes first due and payable after December 31, 2005.**

**(b) The following, all as amended by this act, apply only to property taxes first due and payable after December 31, 2005:**

(1) IC 6-1.1-1-3.

(2) IC 6-1.1-15-10.

(3) IC 6-1.1-17-0.5.

(4) IC 6-1.1-17-1.

(5) IC 6-1.1-17-3.

(6) IC 6-1.1-17-16.

(7) IC 6-1.1-18.5-1.

C  
o  
p  
y



1       SECTION 11. **An emergency is declared for this act.**

**c  
o  
p  
y**

